

## PATENT

## C. REMARKS

Status of the Claims

Claims 1-20 are currently present in the Application, and claims 1, 8, and 14 are independent claims. Claims 1-7, 14, 15, and 17-20 have been amended. Support for the amendments is found, for example, in Applicants' specification on page 15, line 27 through page 17, line 20 and on page 59, line 20 through page 60, line 9.

Drawings

Applicants note with appreciation the Examiner's acceptance of Applicants' formal drawings, filed with the Application on June 29, 2001.

Claim Rejections Under 35 U.S.C. § 101

Claims 1-7 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse the rejections under 35 U.S.C. § 101.

The Examiner states that claims 1-7 do not "apply, involve, use, or advance the technological arts" (see Office Action, page 2, lines 20-21). Applicants respectfully disagree, however, in the interest of advancing prosecution of the present Application, Applicants have amended claims 1-7. As amended, claims 1-7 claim "**a computer-implemented method** for managing an employee by a plurality of managers." Applicants have further amended independent claim 1 to clarify that both the evaluation data and the planning factors data are received "over a network." In addition, the combined evaluation and the combined planning factors are calculated "by a computer system attached to the network." Support for these amendments is found, for example, in Applicants' specification on page 15, line 27

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through page 17, line 20. Thus, amended claims 2-7 clearly apply, involve, and use the technological arts in order to advance the technological arts. In other words, claims 1-7 claim a computer-implemented method that clearly uses a computer network, one or more computer systems, and a data storage area (as depicted in Figure 1 of Applicants' specification) to automatically and efficiently manage employees.

Applicants would also like to draw the Examiner's attention to the Manual of Patent Examining Procedure § 2106, part II.A., which states in part (emphasis added):

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. **Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101.** Compare *Musgrave*, 431 F.2d at 893, 167 USPQ at 289; *In re Foster*, 438 F.2d 1011, 1013, 169 USPQ 99, 101 (CCPA 1971). Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.

The Examiner admits that Applicants' "recited process produces a useful, concrete, and tangible result" (see Office Action, page 3, lines 6-8). Therefore, Applicants' claims can not be said to be "devoid of any limitation to a practical application in the technological arts," and should not be rejected under 35 U.S.C. § 101. Applicants respectfully request that the rejections under 35 U.S.C. § 101 be withdrawn.

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Claim Rejections - Alleged Anticipation Under 35 U.S.C. § 102

Claims 1-20 stand rejected under 35 U.S.C. § 102(a) and 35 U.S.C. § 102(e) as being anticipated by Paizis, U.S. Patent No. 6,338,042 (hereinafter Paizis). Applicants respectfully traverse the rejections under 35 U.S.C. § 102.

To anticipate a claim, the reference must teach every element of the claim (see MPEP § 2131). Applicants respectfully submit that Paizis does not teach every element of claims 1-20. Paizis purports to teach a method and apparatus for incorporating competency and contribution measures into pay decisions (see Abstract). Applicants teach and claim a method, system, and computer program product for managing an employee by a plurality of managers. Applicants are solving a problem found in matrix management situations, where an employee has more than one manager. Using independent claim 1 as an exemplary claim, Applicants teach and claim the following:

- receiving, over a network, evaluation data pertaining to the employee from each of the managers;
- calculating, by a computer system attached to the network, a combined evaluation for the employee from the received evaluation data;
- receiving, over the network, planning factors data pertaining to the employee from each of the managers;
- calculating, by the computer system attached to the network, a combined planning factors for the employee from the received planning factors data; and
- storing the combined evaluation and the combined planning factors in an employee profile data area corresponding to the employee.

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Applicants respectfully submit that Paizis does not teach, or even suggest, receiving evaluation data and receiving planning factors data pertaining to an employee from "each of the managers," as taught and claimed by Applicants. A close reading of Paizis shows that Paizis never considers the situation where an employee has more than one manager, and thus Paizis never teaches or suggests receiving any information, much less evaluation data and planning factors data pertaining to an employee, from "each of the managers." The Examiner cites Paizis at col. 5, lines 49-59 (see Office Action, page 4, line 4). This portion of Paizis states that "[t]he execution 300 of a payment program begins at step 304 in which competency scores, which are typically generated from *a performance evaluation*, are obtained" (col. 5, lines 49-51, emphasis added). Note that Paizis discusses a single performance evaluation, not multiple performance evaluations from multiple managers. Thus, Paizis does not teach "receiving . . . evaluation data pertaining to the employee from *each of the managers*," as taught and claimed by Applicants in independent claims 1, 8, and 14. Paizis deals with the situation where there is a single performance evaluation, not with a matrix management structure that involves receiving evaluation data from "each" of a "plurality of managers." Similarly, Paizis does not teach or suggest "receiving . . . planning factors data pertaining to the employee from *each of the managers*," as taught and claimed by Applicants.

Because Paizis does not teach or suggest receiving evaluation data and planning factors data from "each" of a plurality of managers, Paizis can not, and indeed does not, teach or suggest calculating a "*combined* evaluation" or a

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"**combined** planning factors" as taught and claimed by Applicants. Applicants claim calculating a combined evaluation based on the received evaluations, which, as claimed, are received from "each" of the managers. Applicants further claim calculating a combined planning factors based on the received planning factors data, which, as claimed, is received from "each" of the managers. Paizis does not teach or suggest combining any type of data, much less evaluation or planning factors data, based on input received from "each" of a plurality of managers.

The Examiner cites Paizis at col. 5, line 49 through col. 6, line 10 (see Office Action, page 4, lines 4-6). However, this section of Paizis discusses receiving a single "performance evaluation" from a user (e.g., a manager or supervisor). This single evaluation may contain several competency scores, which are then used to calculate a combined score. However, the competency scores are part of "a performance evaluation" (col. 5, lines 49-51), and are not obtained from "each" of a plurality of managers, as taught and claimed by Applicants.

The Examiner further cites Paizis at col. 5, lines 25-33 (see Office Action, page 4, lines 9-12), which reads as follows:

Once the user interacts with the payment program as desired, output is obtained from the payment program in step 210. The output obtained typically includes information regarding a target pay level, or a payment schedule, for each individual. After the pay level information is obtained, the process of determining a target pay level using measured competencies and levels of contribution is completed.

There is nothing in the cited section of Paizis which discusses calculating a combined planning factors based on the planning factors data received from each of a plurality of managers. Once again, Paizis is dealing with the situation of a

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single user interacting with a payment program. Further, this section of Paizis does not disclose combining any planning factors data to obtain a combined planning factors.

For the reasons set forth above, Applicants respectfully submit that independent claims 1, 8, and 14, and the claims which depend from them, are not anticipated by Paizis.

Notwithstanding the patentability of claims 1-20 based upon the above discussion, Applicants would also like to further discuss dependent claims 4, 11, and 17. Using claim 4 as an exemplary claim, claims 4, 11, and 17 add the following elements:

- identifying an allocation percentage for each of the managers, the allocation percentage indicating an allocation of the employee to the manager;
- weighting the planning factors data received from each manager with the allocation percentage corresponding to each manager, wherein calculating the combined planning factors includes using the weighted planning factors; and
- weighting the evaluation data received from each manager with the allocation percentage corresponding to each manager, wherein calculating the combined evaluation includes using the weighted evaluation data.

Paizis does not teach, and does not even suggest, "identifying an allocation percentage for *each of the managers*, the allocation percentage indicating an allocation of the employee to the manager," as taught and claimed by Applicants. Paizis also does not teach or suggest "weighting the planning

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factors data *received from each manager . . .*," and " weighting the evaluation data *received from each manager . . .*" As discussed above, Paizis does not discuss any situation where an employee has more than one manager. The Examiner cites Paizis at col. 4, lines 42-58 and col. 6, lines 1-15 (see Office Action, page 5, lines 3-12) as teaching these aspects of Applicants' invention. However, these sections of Paizis discuss the "characteristics of a particular position" (col. 4, lines 42-44). As noted by Paizis, "different types of positions may have different measures of competency and levels of contribution" (col. 4, lines 44-46). Note that Paizis goes on to say that "[o]nce the competencies and levels of contribution are measured, a *performance evaluation* is obtained in step 204 using an evaluation process" (col. 4, lines 59-61). Paizis discloses obtaining a single performance evaluation, presumably from a single manager.

The Examiner states that because each employee position has different measures of competency and contribution levels, it must mean that each employee holds various positions, each "inherently under different managers" (see Office Action, page 5, lines 10-12). Applicants respectfully disagree with both conclusions drawn by the Examiner. First, just because a particular position has different measures of competency and contribution levels, it does not necessarily follow that each employee holds various positions. It is more likely that each employee holds a single position, with various job responsibilities as part of that single position. For example, an administrative assistant may hold a single position, i.e. administrative assistant, and yet have numerous job responsibilities, such as answering the phone, typing letters, filing, etc. Second, even an employee with various job

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responsibilities is very likely to only have a single manager or supervisor. For example, an administrative assistant will likely report to the person he or she assists, such as an attorney or an engineer. Applicants respectfully disagree with the Examiner's assertion that because an employee position has different measures of competency and contribution levels, it necessarily follows that the employee holds many positions, each under a different manager. Applicants respectfully request that the Examiner either withdraw this assertion, or provide prior art to support the Examiner's position.

Applicants teach and claim a unique method, system, and computer program product for managing an employee by a plurality of managers. This type of matrix management system is not addressed by Paizis, and therefore Paizis does not anticipate, or even suggest, claims 1-20.

Conclusion

As a result of the foregoing, it is asserted by Applicants that the remaining claims in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

By



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